IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

MONDAY, THE 18TH DECEMBER 2006 / 27TH AGRAHAYANA 1928

WP(C).No. 31630 of 2006(M)

PETITIONER:

V.SHEKHARAN NAIR, S/O.LATE
UNNI NAIR, AGED 64 YEARS, ILLATH HOUSE,
VENGERI P.O., CALICUT-673 010.

BY ADV. SMT.LATHA PRABHAKARAN
SRI.K.M.JAMALUDHEEN

RESPONDENTS:

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1. THE STATE OF KERALA, REP. BY THE
SECRETARY TO GOVERNMENT, LOCAL ADMINISTRATION,
SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DIRECTOR OF MUNICIPAL ADMINISTRATION
THIRUVANANTHAPURAM.

3. THE SECRETARY, CALICUT CORPORATION,
CALICUT.

BY GOVT.PLEADER SRI.BIJOY CHANDRAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.K.DENESAN, J

W.P.(C)NO.31630 of 2006

Dated this the 18th day of December, 2006

JUDGMENT

The petitioner had filed O.P.2771/2001 before this Court seeking for a declaration that he was entitled to get promotion as Council Secretary/P.A. to Secretary in the Municipal Common Service with effect from 1.8.1999. As per Ext.P4 judgment dated 21.3.2006, the first respondent Director of Municipal Administration was directed to consider the representation of the petitioner with notice to him and pass appropriate orders. The petitioner has since retired from service while holding the post of P.A. to Secretary. Though there was no direction to afford an opportunity of being heard to the petitioner, the Joint Director of the Department issued notice to the petitioner for personal hearing, and pursuant to that, the petitioner was, in fact, heard by the Joint Director. Thereafter the first respondent passed Exts.P5 and P6 orders rejecting the request of the petitioner for giving him retrospective promotion from 1.8.1999.

2. One of the contentions urged by the petitioner is that the submissions made by the petitioner and taken note of by the Joint Director have not been considered in Ext.P6 and that has happened since the officer who heard the grievance of the petitioner in person is

the Joint Director and the authority which issued Ext.P6 is the first respondent Director.

3. Learned Government Pleader, on instructions, submits that the statement of the petitioner that the authority which heard the petitioner did not pass the impugned order is correct.

4. In the above circumstances, without expressing any opinion on merits of the claim, I am inclined to set aside Ext.P6 directing the first respondent to pass fresh orders after affording an opportunity of being heard to the petitioner. Same shall be done expeditiously, so that the officer who would listen the arguments of the petitioner himself will pass the final order. This shall be done, in any event, within two months on the petitioner producing a copy of the judgment along with a copy of the writ petition.

The writ petition is allowed to the above extent.

K.K.DENESAN, JUDGE

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